

are properly joined to this case. Defendants ultimately have the “heavy burden” of proving fraudulent joinder “by clear and convincing evidence.” *Ayres v. Sears*, 571 F. Supp. 2d 768, 773 (W.D. Tex. 2008) (citing *Grassi v. Ciba-Geigy, Ltd.*, 894 F.2d 181, 186 (5th Cir. 1990)). Defendants have failed to meet that burden, and indeed cannot do so under the facts of this case. Finally, Defendants cannot base their removal entirely upon 28 U.S.C. § 1452, which in any case authorizes remand under equitable circumstances that are present in this case. When properly considering the citizenship of all properly joined and properly aligned parties, there is no jurisdiction over this case, and it must be remanded.

As required by Local Rule 7.1, Technify is also filing and refers the Court to its Brief in Support of this Motion, which provides the detailed legal grounds supporting its position. Technify respectfully requests that its Motion be granted, and for all other relief the Court deems just and proper.

Dated: October 24, 2014.

Respectfully submitted,

/s/ Ross Cunningham

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule 5 on October 24, 2014. As such, this document was served on all counsel who are deemed to have consented to electronic service.

/s/ Ross Cunningham

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